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**STATEMENT IN SUPPORT  
OF CERTAIN VARIANCES  
FROM THE PROVISIONS OF  
THE NEW YORK CITY ZONING RESOLUTION**

**Affected Premises:**

**CONGREGATION SHEARITH ISRAEL  
6-10 West 70<sup>th</sup> Street/99-100 Central Park West  
Block 1122 Lots 36 & 37  
Manhattan**

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**Friedman & Gotbaum LLP  
568 Broadway, Suite 505  
New York, NY 10012  
(212) 925-4545**

## **THE APPLICATION**

This statement is filed in support of the Application by Friedman & Gotbaum LLP on behalf of the Trustees of Congregation Shearith Israel (“CSI”) pursuant to Section 72-21 of the Zoning Resolution of the City of New York (the “Zoning Resolution” or “ZRCNY”) for a variance in connection with the construction of a new eight-storey (plus penthouse) community facility/residential building at 6-10 West 70<sup>th</sup> Street (Block 1122, Tax Lot 37) (the “New Building” or “Lot 37 Site”). The New Building will replace on an expanded footprint the current Community House, which is a support building in deteriorating condition connected to the CSI Synagogue (the “Synagogue”), also known as the “Spanish and Portuguese Synagogue in the City of New York,” located on the southwest corner of Central Park West and West 70<sup>th</sup> Street. Additionally, the New Building will house residential uses in the form of five dwelling units for private occupancy.

The New Building will contain 42,961.53 zoning square feet, which when combined with the other buildings on its zoning lot (as further described on page 4) will result in a total zoning square footage of 70,720.73 sf. The maximum permitted FAR over the entire zoning lot is FAR 8.36. The current built FAR over the entire zoning lot is FAR 2.25. The built FAR over the entire zoning lot upon completion of the New Building will be FAR 4.09. Expressed as zoning floor area rather than FAR, the zoning lot is permitted 144,510.96 sf. of development. The existing buildings to remain on the zoning lot total 27,759.2 sf, leaving 116,751.76 sf available for development following demolition of the existing community house. The New Building will add 42,961.53 sf. The resulting net increase in zoning floor area attributable to approval of this Application is 31,882.63 sf, or 27.3 percent of the potentially available air rights after demolition of the community house.

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The current community house building height (and streetwall height) is 52'-9 ¾" to top of its parapet. The New Building will have a streetwall height of 95'-1" to the top of its parapet and a building height of 105'-10" to the top of the highest occupied floor. The two cellar levels and first four floors of the New Building will hold community facility (Use Group 3) uses associated with the Synagogue's mission (multifunction room, meat and dairy kitchens, babysitting room, expanded small synagogue, foyer servicing the main sanctuary, rabbinical and administrative offices, exhibition and archival space educational rooms for use by its Hebrew School and by a Jewish day school which has leased space in the existing community house since 1994, and the Synagogue caretaker's apartment. The upper four storeys, plus a 2,815.92 sf penthouse, will be occupied as Use Group 2 residential space.

As more fully described in this Application, the New Building will be located on a split zoning lot in which the eastern 72.7 percent is zoned R10A and the western 27.3 percent is zoned R8B. The New Building is located almost entirely on the R8B portion of the zoning lot, however, because the creation of the zoning lot predates the enactment of the 1961 Zoning Resolution, the distribution of zoning floor area over the zoning lot uses the averaging methodology permitted as a matter of right by ZRCNY Sec. 72-22. The configuration of the existing Synagogue, CSI's programmatic requirements for the New Building and the permitted distribution of zoning floor area result in the following noncompliances, which are the subject of this Application: (1) R10A and R8B lot coverage exceedances per ZRCNY Sec. 24-11/77-24; (2) R10A and R8B rear yard exceedances the second, third and fourth floors per ZRCNY Sec. 24-36; (3) R8B setback exceedance per ZRCNY Sec. 633; (4) R10A and R8B base and building height exceedances per ZRCNY Sec. 633; and (5) R8B rear setback exceedance per ZRCNY Sec. 663.

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The New Building will be developed on a zoning lot comprised of (1) Tax Lot 36, which is fully occupied by the Synagogue and an adjacent single family dwelling (99 Central Park West) that originally served as the Rabbi's Parsonage and (2) Lot 37, which currently consists of the four-storey Community House constructed in 1954, which will be demolished, and a vacant parcel comprising almost 60 percent of Lot 37 that was previously improved with two rowhouses, which were demolished in 1950. These two lots, in common ownership since the enactment of the 1961 Zoning Resolution, constitute a single zoning lot as the term is defined in ZRCNY Sec. 12-10. While the entire zoning lot is situated in the Upper West Side/Central Park West Historic District, only the Synagogue is an individually designated landmark.

The purpose of the New Building is to address several infringements on the mission of CSI as a house of worship, center of Jewish education and culture and provider of community programming open to the public. The Synagogue has severe circulation limitations which interfere with its religious programming. These limitations cannot be addressed through interior alterations. In addition, the physical obsolescence and the ill-configured floorplans of the current Community House compromise CSI's religious, educational and cultural missions. Combined, the configuration of the structures on the zoning lot make it impossible to utilize in a feasible manner any of the lot's unbuilt zoning floor area in order to address any of these programmatic difficulties. As further described throughout the Application, the New Building addresses the programmatic difficulties by providing: (1) new horizontal and vertical circulation systems for the Synagogue to eliminate systemic shortfalls in its construction and design that limit barrier-free access to its sanctuaries and ancillary facilities and that cannot practically be addressed through physical exterior alterations and/or enlargements to the Synagogue itself, (2) a new "Community House" (being the two cellars and the first four floors of the New Building)

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providing offices and specialized rooms supporting religious, educational and cultural uses that are essential to CSI's mission but either cannot be accommodated within or beneath the Synagogue or can no longer be accommodated in the physically obsolescent and deteriorating existing Community House; and (3) residential use on floors 5 – 8 (plus penthouse) to be developed as a partial source of funding to remedy the programmatic religious, educational and cultural shortfalls on the other portions of the zoning lot.

The New Building cannot be constructed in a manner consistent with the Zoning Resolution with regard to its yards, streetwall, lot coverage and height and setback that will overcome the current religious, educational and cultural programmatic difficulties. These zoning issues are described at length below. The need for the waivers requested in this Application stem from (1) the lack of any feasible options to modify the existing structures consistent with the Zoning Resolution that will address these severe programmatic difficulties; (2) the Synagogue's substantial existing zoning noncompliances and (3) the parallel jurisdiction of the Landmarks Preservation Commission, which has approved unanimously both the massing and the design of the New Building, and by so doing has expressed views substantially similar to CSI regarding the need to protect the architectural heritage of the landmarked Synagogue. In sum, while the landmark status of the Synagogue clearly presents hurdles in addressing the programmatic difficulties in a manner compliant with the Zoning Resolution, no claim is made herein for the granting of a variance based on the landmark status of the Synagogue or its location within a historic district. The hardships imposed by attempting to overcome the religious, educational and cultural difficulties facing CSI through a new building that complies with the Zoning Resolution would be present even if the Synagogue was not so designated and the zoning lot was not located within a historic district.

## **BACKGROUND OF CSI AND THE SITE**

The Congregation has worshipped in New York City for 350 years, holding its first services in Peter Stuyvesant's New Amsterdam in 1654. For almost two centuries it served as the only Jewish congregation in New York City, thus sharing its diverse history of serving its congregants and the larger community within the Dutch colonial experience, the British colonial experience and the American experience literally from its birth. The Synagogue is CSI's fifth edifice in New York City and is one of the City's earliest individually designated landmarks. Like all other religious institutions that have served the New York community continuously from colonial times forward, its history is one of creating a house of worship for its nearby congregants, and relocating to newer, larger houses of worship as the City grew and its congregants moved to newer residential quarters. This pattern can be seen with all of the City's faiths founded in the Eighteenth Century or earlier. Modern Manhattan has been totally settled and the availability to seek new land on which to construct facilities commensurate with their congregations' growth has long since vanished for religious institutions on Manhattan. Moreover, the congregations of these institutions are no longer migratory. Not all are experiencing growth, but finding that with their congregations no longer migratory and new development exceedingly expensive, these institutions must strive to improve the sites they occupy in ways the worshippers who planned for their construction could not imagine. Yet the traditional remedy for accommodating growth for a religious institution, relocation to new site, is now geographically, demographically and financially out of the question.

With regard to CSI's synagogue, constructed in 1896 and virtually unchanged since that date, it was not built to serve the size of its present community, either as a house of worship or as an educational and cultural center. Zoning and landmarked restrictions now severely limit

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significant reconfiguration of the site. Relocation is cost prohibitive and in any event its stable West Side congregants, whose faith requires that they be within walking distance of its house of worship, would hardly be served by relocation.

*History.* Congregation Shearith Israel was founded in 1654 by twenty-three Sephardic Jews, who, having been kidnapped by pirates and freed by a French ship, were deposited on the shore of Peter Stuyvesant's New Amsterdam, whereupon they were immediately imprisoned in what must have been one of the earliest recorded cases of illegal immigration in the New World. Freed upon petition to the Dutch governments, these involuntary immigrants fought for their rights and prospered in the Dutch colony. Initially limited to these original immigrants, the Jewish community in the colony was relatively small and the Congregation met either in private homes or in rented quarters. On the seventh day of Passover, April 8, 1730, CSI consecrated its first synagogue building on Mill Street in what is now the Financial District and as such was the first structure designed and built to be a synagogue in North America. The first Mill Street Synagogue was replaced by a larger structure at the same location in 1818. In 1834, the Congregation moved to a new building on Crosby Street between Broome and Spring streets. CSI's fourth home was later built on West 19<sup>th</sup> Street, near Fifth Avenue. CSI owns and preserves the three small cemeteries associated with these earlier synagogues (55 St. James Place, opposite Chatham Square, in use 1682-1828; 76 West 11<sup>th</sup> Street, between 6th and 7th Avenues, in use 1805-1829 and 110 West 21<sup>st</sup> Street between 6th and 7th Avenues, in use 1829-1851) in which are buried some of its earliest congregants, including officers and financiers of the Revolutionary War and founders of Columbia University, the New York Stock Exchange and Mount Sinai and Montefiore Hospitals. Emma Lazarus, whose poem is inscribed on the base of the Statue of Liberty, was a congregant, as were Supreme Court Justice Benjamin Cardozo and

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Commodore Uriah Phillips Levy, Revolutionary War naval hero and later owner and restorer of Thomas Jefferson's Monticello.

*Unigue Attributes of the Synagogue.* CSI built the current Synagogue in 1896, as New York City's population increased and migrated northward. It was surrounded by farmlands at the time. In the Sephardic tradition, the congregants transported and incorporated elements of its past synagogues into its new building. The floorboards in the main sanctuary were originally used as such in the previous sanctuaries. The Reader's Desk on which the Torah Scrolls are opened and read and the four large candlesticks that surround it are original to the 1730 building. The small chapel in the current Synagogue, now a room in the Synagogue but known as the Little Synagogue, contains lighting fixtures, including the Ner Tamid (the Eternal Flame), the tablet of the Ten Commandments located over the Ark, benches and religious objects also used in the Mill Street Synagogue. Many of the religious objects used in the Little Synagogue have been used in daily services since Pre-Inquisition Spain. The Torah Scrolls encased in the Ark, which are also used on a daily basis, bear the slashes sustained by the sword of a British soldier when the City was attacked during the War of 1812. (Legend has it the soldier was severely punished for his sacrilege.) The silver bells and ornamental plates adorning those Torah Scrolls were smithed by Myer Myers, under whom a young Paul Revere served as an apprentice in Boston. These details of CSI's rich pre-colonial and colonial architectural and ceremonial history are provided to illustrate to the Board that CSI is not only a significant center of Jewish faith and culture, but that in addition its stewardship of its archeological, historical and architectural treasures, used in its everyday services, has created a unique environment in which the exercise of faith occurs in a living museum. Jewish scholars and visitors from around the world come to visit the Synagogue, referred to by others as the "Mothership of the Jewish Experience in the

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Americas.” Indeed, its ties with the colonial experience are so deep that it once uniquely shared attributes with the Anglican Church of the 18<sup>th</sup> and 19<sup>th</sup> Centuries in referring to the home of its religious leader as the “Parsonage” (*i.e.*, 99 CPW) and referring to its Chief Rabbi by the honorific title “Rt. Reverend.”

*Ties to Historic Preservation and LPC.* This physical and cultural history of the Synagogue is an essential element of this Application. The physical appearance of the existing Synagogue has come to serve as an icon to World Jewry for the migration of Judaism to the New World and the founding of the Jewish experience in the Americas. While the Synagogue’s landmark designation is, of course, an honor, it comes centuries late for a congregation that has a 350 year unblemished history of approaching historic preservation with an orthodoxy and a purpose far and away exceeding municipal regulation. This stewardship is undeniably linked to the religious, cultural and educational mission of CSI. It informs every decision regarding the use and development of its property. It may, in fact, be true that the Landmarks Commission would not approve applications proposing to alter the Synagogue through additions over it or jeopardize its structural integrity by building under it, but with all due respect those regulatory issues are rendered meaningless by the superseding obligations succeeding generations of congregants have accepted to preserve the Synagogue and its traditions. CSI holds any effort to alter the Synagogue to be a violation of that obligation and antithetical to its mission. Thus, this Application, while tracking the hopes of most preservationists by (1) transferring available floor area from the Synagogue footprint for use elsewhere on the zoning lot, (2) refraining from any form of construction or alteration above, within or below the Synagogue that might affect its integrity, and (3) dedicating itself to the continued archival restoration and maintenance of the landmarked Synagogue through capital fundraising that includes a one-time monetization of

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zoning floor area through developing a moderate amount of residential space, is otherwise driven by CSI's own core values as trustees of the Synagogue and its contents for the benefit of generations to come. All of the requests for relief presented in this Application are directed toward alleviating the hardships caused to that mission by the literal application of the cited provisions of the Zoning Resolution.

### **CURRENT USES AND CONDITIONS**

As noted above, the Synagogue itself remains in constant use as a house of worship. In addition to its sanctuaries, the Synagogue contains the executive director's office, several administrative offices, the multifunction Levy Auditorium, and a kitchen and coat room within its cellar level. Although the Synagogue has a formal monumental entrance on Central Park West, it is almost never used. It is perhaps the most glaring design flaw of the Synagogue. Because according to Jewish Law a synagogue must be designed so worshippers face east when praying toward the altar, the altar is located along the east wall of the Synagogue. Thus, the monumental entrance is anything but monumental as once it is entered, without vestibule or foyer, it is reduced to small interior doors backstage of the altar and narrow passages to circumnavigate it. The daily route for entering and leaving the Synagogue is through its side doors on West 70<sup>th</sup> Street, which were never designed as a primary means of access or egress and which require the use of a steep interior stairway to enter the foyer leading to the sanctuaries. This access was only moderately improved by the construction of the Community House in 1954, which provided additional doors but only through indirect means and in any event did nothing to alleviate the need for the stairs.

While one is tempted to conclude that this unfortunate result was solely due to religious orthodoxy, the fact remains that the lay architectural mandates (or hubris) of the day may also

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have contributed to creating this unpractical result. Most of the institutional buildings facing Central Park West have similar monumental entrances that either originally or over time have been abandoned by their occupants in favor of more practical side-street entrances. Such examples are the New-York Historical Society, which uses its West 77<sup>th</sup> Street on a daily basis but rarely uses its prominent CPW entrance, and the First Church of Christ, Scientist at CPW and West 68<sup>th</sup> Street.

CSI can no longer ignore the programmatic impacts caused by this inability to enter the Synagogue and move around it in a proper manner. When constructed in 1896, CSI was a congregation of 300 families. It is now a community of 550 families. Its primary sanctuary cannot be reached without great labor. Access to its sanctuaries and their ancillary facilities are not barrier-free. CSI has studied the options for alterations to the Synagogue to address these deficiencies. The studies have concluded that there are no good options and that in any event there are no options that would not necessitate significant loss of original historic material. These access deficiencies can only be addressed by demolishing the Community House and replacing it with a new contiguous building designed with circulation systems that can be appended to Synagogue.

In 1954, CSI converted two adjacent rowhouses into the current Community House. Aside from re-cladding the façade, the scope of the alterations to the rowhouses was minimal, as evidenced by the continued presence of the shared party wall between them in many areas of the building. These original structures now comprising the Community House have reached the end of their useful life and are in need of substantial improvement. The combined buildings house a 1,668 sf multipurpose room/auditorium, which is on the same level as the Synagogue's first floor albeit at a lower level and thus cannot be entered without the use of stairs. This room is used for

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various meetings and as a play space for a day school which leases the space to run its programs. Approximately 694 sf of offices and 2,818 sf of classrooms are located above the multipurpose room/auditorium. The entire CSI administration is housed in these quarters and all of CSI's programming for religious services and community services, which are open to public, emanates from the two small second floor office spaces. CSI's community services programming is extremely active, with a number of affiliate organizations, such as the longstanding Sisterhood providing community outreach to congregants and non-congregants, Hebra Hased Va-Amet, the City's oldest Jewish philanthropic organization, which provides dignified burials for indigents and the 1654 Society dedicated to preserving CSI's historical treasures, including the preservation of its two landmarked cemeteries in Manhattan and fostering a historical awareness of the Jewish American colonial experience. CSI has a rich and detailed history of championing the plight of the poor, homeless and hungry, both globally and within the West Side community. All of those efforts are administered by staff and volunteers from within the Community House.

In addition, the Community House needs to provide space for CSI's Hebrew School of approximately 40 students and its tenant day-school, Beit Rabbin, which enrolls 125 children between the ages of five and seventeen in full time attendance. Beit Rabbin is a licensed private school that has been a tenant since 1994. In addition to leasing during the day CSI's lower level auditorium as a general purpose room, Beit Rabbin also leases three small classrooms on each of the 2<sup>nd</sup> and 3<sup>rd</sup> floors (the smallest of which measures only 13 ft by 19 ft), and a fourth classroom on the 4<sup>th</sup> floor which are not used for CSI's own educational purposes at all times during the school weekday. CSI anticipates that Beit Rabbin will lease comparable space in the New Building. The square footage of the existing 7 classes totals approximately 2,818 sf. Recently the Landmarks Preservation Commission approved the addition of a temporary trailer

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in the vacant portion of Lot 37 to permit these educators to alleviate the severe overcrowding in the Community House. Beit Rabbin is not affiliated with CSI other than as its tenant and membership in CSI is not a prerequisite for admissions. The relationship between the two organizations was borne of the fact that like all other ancillary religious schools, CSI's classrooms are vacant during the hours of the regular school day. An important factor of Beit Rabbin's tenancy is that it shares CSI's missions and goals and thus was chosen as a suitable candidate to utilize CSI's classrooms and sanctuary for its program. While income is generated which supports CSI's own mission, Beit Rabbin has become a welcomed feeder for Synagogue growth and the adjacency to the Synagogue has been an important attribute to the educational and cultural teaching within the tenant school.

CSI offers a wide range of youth activities such as monthly Shabbat dinners, "toddler Shabbat" and informal Saturday religious classes, which also take place within the Community House. During holidays, the students participate in traditional holiday community service programs which include delivery of food packages throughout the City. For adult congregants, the Community House provides space for educational studies in Mishneh Torah (basic principles in Jewish philosophy, ethics and law); Ladino (Judeo-Spanish language studies); Shabbat; and basic Judaism. These classes have been embraced by Jews throughout the metropolitan region seeking to reach a deeper connection with their heritage.

In addition, the lack of adequate storage space and offices has forced CSI since 1995 to relocate its seminal historical archives to an off-site storage facility in Newark, New Jersey at great expense and significant compromise to its mission. This move was also necessitated due to climate control requirements and to provide for a required additional office in the previously occupied archive area. Books, records, correspondence, sculpture and other religious artifacts

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are now stored within a 350 sf climate controlled storage space and a 250 sf open storage space. It has long been an aspiration to have suitable archival facilities on site so that CSI's considerable treasures, many of which could be used in connection with worship as some now are, could be made more available to the rabbinate, Judaic scholars, congregants and children in its educational programs.. The proposed plans provide for a 565 sf archival room with appropriate climate controls at the New Building's first floor level.

### **THE LANDMARKS APPROVAL PROCESS**

A Certificate of Appropriateness for the New Building was unanimously approved by the Landmarks Preservation Commission ("LPC") on March 14, 2006. One Commissioner described the New Building's design and massing as "thoroughly modern...but speak[ing] very eloquently both to the temple adjacent and to the other brick apartment buildings." It was not only an "appropriate addition to [the Upper West Side/Central Park West historic] district, but a very positive addition . . . that will stand on its own as a landmark . . ." The official LPC March 14, 2006 recorded transcript provides the excerpts from statements by various Commissioners preceding the unanimous vote to approve the New Building:

"...this is a fine example of what can happen i[f] careful evolution i[s] permitted...we have a contemporary design, finally in complete harmony with the classic building next to it...I think the reduction of height was one of the major things we felt from the beginning was necessary. Also, the redesign of the entrance relating to the old building is now very successful, and they work together beautifully."

"I think the massing is appropriate. It is a massing that relates to the street and to its proximity to Central Park West. And, overall, I think the building will make a great contribution to the streetscape."

“I do think [the proposal] is an elegant solution in many ways to what a difficult and complex problem here, to try to insert this building into the existing synagogue and adjacent property.”

“ ...I think the massing with the removal of the upper penthouse is absolutely in line with the surrounding buildings, specifically, the building adjacent, with the single setback penthouse that is partially visible...Again, I have always felt that the limestone frame that is adjacent to the temple and over the main bulk of the building is inspired.”

The New Building represents a six-storey reduction from CSI's initial LPC submission in 2003. The reduction was necessitated due to the LPC's concerns that the height of the initial submission was not in keeping with the character of the Historic District.

The reduction in height brought with it a profound change in the nature of the zoning waivers being sought, which is highly pertinent to this Application. As originally proposed, the New Building required the transfer of substantial zoning floor area across the zoning district boundary bisecting the zoning lot, in contravention of the Zoning Resolution. This would have been another objection in addition to those presented in this Application. Inasmuch as the zoning floor area being transferred was being taken from air space over the designated landmark, and because the proceeds of the development of the residential portion of the New Building (ten floors in the initial Application) were being directed to the continued restoration and maintenance of the landmarked Synagogue, CSI believed that such an action would qualify the development under the LPC's precedents for a Special Permit pursuant to ZRCNY Sec. 74-711. However, the Commission's response to the initial LPC application, and in particular the use of ZRCNY Sec. 74-711 to transfer zoning floor area across a district boundary, was mixed, with some Commissioners opposed to finding that the requisite “preservation purpose” (NYCZR Sec.

74-711(a)(i) would be served. The partial remarks of LPC Commissioner Gratz are hereby submitted as representative of that opposition:

“We are being asked to find appropriate a high rise building under a 74-711 Special Permit proceeding that spans two zoning districts if (1) it is appropriate to the landmark site and (2) if it serves the preservation purpose. . . . While the 74-711 provision allows some flexibility in order to achieve conformity with the existing neighborhood character, that flexibility was never meant to allow something so contrary to the site. This would surely lead to an erosion of the landmarks law that I believe would be beyond our wildest nightmares.”

In fashioning its response to the Commissioners’ comments, CSI choose to reduce the height of the New Building from 14 to 8 stories plus penthouse. In so reducing the floor area of the New Building, the distribution of zoning floor on each side of the zoning district boundary resolved itself without the need for waiver or special permit. In addition, the extent of the streetwall and height and setback waivers was also reduced. In consultation with the LPC staff, it appeared that if the Commission was signaling that the larger project would fail the preservation purpose required for its support of a ZRCNY Sec. 74-711 Special Permit, there was no reason to believe the smaller building would. In returning to the LPC with the smaller New Building, CSI indicated its willingness to seek the variance requested in this Application. The Commissioners in attendance did not object to CSI’s position and the Commission moved forward with its consideration of the revised Application and ultimately unanimously approved it.

This history of LPC consideration is submitted to substantiate that CSI took every available step to seek the administrative relief provided in the Zoning Resolution for seeking a special permit to modify the bulk regulations for which this variance Application now seeks waivers, thereby exhausting its administrative remedies prior to the filing of this Application.



## **THE ZONING LOT AND ZONING NON-COMPLIANCES**

Tax Lots 36 and 37 have been in common fee ownership since 1949 and share the necessary contiguity set forth in ZRCNY 12-10 to be deemed a single zoning lot since that date. The zoning lot is a rectangle bounded on the west by Central Park West (100.5 ft frontage) and on the north by West 70<sup>th</sup> Street (172 ft frontage). On its east boundary is the building wall of 18 West 70<sup>th</sup> Street, a 9-storey multiple dwelling. Its southern lot line is shared with 91 CPW and a row house at 9 West 69<sup>th</sup> and forms an irregular pattern of rear yards and side and rear walls of various depths. The zoning lot's area is 17,286 sf. A zoning district boundary runs parallel to CPW 125 ft west of CPW. The R10A avenue portion of the zoning lot comprises 73 percent of the total area of the zoning lot. All of the Parsonage and Synagogue and approximately the easternmost 17 feet of the current Community House are located in the R10A portion of the zoning lot. The remainder of the zoning lot (27 percent of its total) is zoned R8B. The maximum permissible FAR for a community facility in an R10A district is 10 and for a mixed use community facility/residential building in an R8B district is 4. Because the zoning lot has been in existence since prior to December 15, 1961, it is entitled under the provisions of ZRCNY 77-22 to utilize an average FAR across the entire zoning lot. The Applicant has calculated that averaged permissible FAR to be 8.36. Using that FAR, the R10A portion of the zoning lot is permitted 105,022.50 sf of zoning floor area and the R8B portion of the zoning lot is permitted 39,488.46 sf of zoning floor area. Upon completion, the New Building will contain 42,961.53 sf (11,197.51 on the R10A and 31,764.02 on the R8B portions of the zoning lot), which amounts to a total FAR on the zoning lot of 4.09, well under the amounts permitted. In addition, included in the LPC approvals is a determination to promote a distance between the landmark Synagogue and the New Building. This was satisfactorily achieved by employing a "notch" of open space

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pushing west the east elevation of the New Building. This notch was imposed without regard to zoning considerations, one of which was that it eliminated from full development the only portion of Lot 37 within the R10A district. Thus the notch has the effect of requiring more floor area to be built in the R8B portion of Lot 37, thereby increasing the extent of the bulk waivers requested in this Application.

With regard to the R10A portion of the zoning lot, development of available zoning floor area is complicated by the fact that beyond 100 ft from the avenue, the existing Synagogue and Community House already exceed permitted lot coverage and that, if the Synagogue is going to remain unaltered and the air space above it undeveloped, the further use of the unused zoning floor area must be restricted to the same westernmost portion of the R10A in which the lot coverage exceedance exists. This limitation results in a severe limitation of the use of available zoning floor area, and its only feasible use is as set forth for the massing of the New Building. The following exceedance is increased in the R10A portion of the zoning lot:

- (1) ZRCNY Sec. 24-11/77-24: extent of the existing lot coverage noncompliance is increased.

Within the R8B portion of the zoning lot, the New Building is underbuilt based on the permitted FAR 8.36, but its massing cannot be provided in an as-of-right manner due to the unique role it must play in addressing the Synagogue's deficiencies as well in providing the types of spaces required for CSI to maintain its religious, educational and cultural activities. The following exceedances are created in the R8B portion of the zoning lot:

- (1) ZRCNY Sec. 24-11/77-24: permitted lot coverage is exceeded,
- (2) ZRCNY Sec. 23-633: permitted base height, setback and building height requirements are exceeded, and
- (3) ZRCNY Sec. 23-663: required rear setback is not provided.

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Finally, in order to provide for the appropriate connections between the Synagogue and the New Building and in order to provide suitable floorplans and adjacencies for the portion of the New Building to be used by CSI for Community House purposes (floors 1 – 4), the first floor will fully cover the lot and floors 2 – 4 will set back 20 ft from the rear property line. Such coverage is permitted for the first floor but the other three floors fail to provide the required 30 ft rear yard in either the R10A portion or the R8B portion of the zoning lot as set forth in ZRCNY Sec. 24-36.

### **FIFTY YEAR SITE HISTORY**

The Synagogue was built in on Lot 36 in 1896-97. The Community House was created in 1954 through the combination of two turn of the century row houses on what is now a portion of Lot 37. The Community House and Synagogue have come to share the same property address: 8 West 70<sup>th</sup> Street. The vacant portion of Lot 37 was created when two of the four rowhouses owned by CSI, presumably numbered Nos. 16 and 14 West 70<sup>th</sup> Street, were demolished in 1950. These houses no doubt once existed on individual tax lots, but over time those lots have been merged into Lot 37. No use or bulk modifications have occurred since 1954. In 2006 the LPC approved the installation of one trailer for educational purposes on the vacant portion of Lot 37.

### **THE NEW BUILDING DEVELOPMENT PROGRAM**

*Synagogue Accessibility.* For all of the reasons set forth above, CSI can no longer meet its religious, educational and cultural programmatic needs without significantly modifying the access and egress for the sanctuaries. Because there is no practical solution that includes alteration work within the Synagogue, and because any such alteration work would be contrary to CSI's mission, the solution must be found within the footprint of the New Building. Although the Synagogue's CPW and West 70<sup>th</sup> Street entrances will remain where currently located, the

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New Building will provide a more generous barrier-free set of door leading to a vestibule off an expanded Synagogue lobby and gallery. The New Building will include elevators designed to provide access to the balcony seating area of the main sanctuary. Adjacent to the gallery, an archives room worthy of CSI's historical relics, papers and documents for exhibition and scholarly study will be located. Of major significance to CSI is the first floor's proposed 1,320 sf enlargement of the Little Synagogue into the New Building, which remains the most important room within the Synagogue for daily sunrise and sunset prayer services, small ceremonies and personal prayer.

Community House. In addition, CSI's ability to continue to operate within the limitations of the existing Community House has ended and it now must address the need for both newly designed and enlarged community facility space beneath and within a newly constructed New Building. Below-grade levels will provide an appropriately sized and barrier-free multi-function room, meat and dairy kitchens, a babysitting room, residential storage space and building services. Rabbinical and executive offices currently located on the second floor of the existing Community House have been given more appropriately sized and barrier-free locations on the Floors 1 and 2. Floors 2, 3 and 4 will contain appropriately sized and barrier-free classrooms for CSI and its tenant school's educational purposes, as well as the CSI caretaker apartment. Floors 5 through 8 and the penthouse will be residential.

Specifically, the New Building will provide a 3,259 sf increase to the floorplate of the Community House and the overall square footage of community facility use will be increased by 8,957.14 sf above grade. While the Synagogue provides a full cellar level and a small sub-cellar, the demolition and replacement of the Community House will permit excavation of Lot 37 to provide both a subcellar and cellar level for programming where none exist today. The critical

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programmatic improvements to both Synagogue and Community House made possible through construction of the New Building are as follows:

- New barrier-free elevator dedicated solely to accessing the Synagogue's upper levels.
- Enlarged barrier-free vestibule and Synagogue lobby at the first floor level.
- New 6,432 sf multi-function room at the subcellar level, which will be utilized solely by CSI's members for social gatherings, educational lectures and life cycle celebrations. CSI's bylaws specify that all ceremonies must be done under the auspices of CSI's rabbi and with CSI's "customs." Accordingly, CSI does not intend to lease this space to outside catering entities. Current facilities are so undersized that member weddings have taken place at CSI with receptions occurring off-premises. Due to the lack of sufficient space for religious life-cycle events, funerals are often required to use both auditoriums as well as the Synagogue.
- New babysitting room, storage and office space, dairy and meat kitchens at the cellar level.
- Expanded Small Synagogue, new exhibition space and archival room at the first floor level.
- Appropriately sized Rabbinical and executive offices on floors one and two.
- Twelve (versus eight existing) appropriately sized barrier-free new classrooms on floors two through four.
- Appropriately sized apartment for CSI Caretaker at fourth floor level.

When the Community House was originally built in 1954, a caretaker's apartment was included as an accessory use to the community facility and is noted as such on the building's Certificate of Occupancy. Due to the CSI's heirloom status and the numerous priceless religious artifacts and relics contained within the Synagogue, it is critical to CSI's program that the caretaker continue to live on-premises to ensure that the electrical, plumbing and heating systems remain in good working order, and that any potential emergency can trigger an immediate response. CSI is protected with fire, flood, carbon monoxide and carbon dioxide detectors as

well as a closed circuit television system, all of which are monitored by the caretaker both in his apartment and at the lobby's security desk. CTV cameras surround CSI's exterior and also monitor its historic exhibits within the Synagogue. Currently, the caretaker oversees a staff of one fulltime security guard and three full-time maintenance workers.

Without the New Building requested in this Application, CSI's existing programmatic deficiencies will remain and continue to get worse. The continuation of these deficiencies through CSI's inability to construct the New Building would seriously undermine the religious, educational and cultural mission of CSI. Only through the approval of this Application can these deficiencies be eliminated (see page 15A, floor area chart comparing existing and proposed program use).

The additional space in the New Building allocated to CSI's religious, educational and cultural mission is the first such increase in space for CSI since 1954. The addition of this space will permit the Synagogue leaders to address the needs of its 550 families (approximately 1,320 individuals), which is a 30 percent increase above the 380 families (or approximately 900 individuals) that were congregants in 1954 and estimated to be several times the number of families served when the building was opened in 1896. The Synagogue and proposed New Building include 15 office areas (9 and 6 offices, respectively) totaling approximately 4,003 sf, whereas the Synagogue and Existing Building contained only 13 office areas within 2,676 sf. The current 12 staff positions include the Rabbi, cantor and sexton; two secretaries; bookkeeper; program director, executive and assistant executive director; building manager; and two maintenance men. Under the proposed plans, CSI's staff will be increased from the existing 12 to 18 persons. The new office areas will be utilized by CSI's new assistant Rabbi; program director, secretary and assistant; archivist and tour director. Employee growth is not anticipated

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Congregation Shearith Israel  
 PLATT BYARD DOVELL WHITE ARCHITECTS  
 EXISTING AND PROPOSED PROGRAM AREA COMPARISON CHART  
 22-Oct-07

FLOOR	USE	COMMUNITY FACILITY (SF)													RES. (SF)											
		Synagogue Sanctuary	Small Synagogue	Archive/Library	Multi-Function	Meeting Room	Lobby/Exhibition	Kitchens	Offices	Classrooms	Baby Sitting	Rabbi's Study	Parsonage	Caretaker		Stor.	Res.									
SubCellar	Proposed				6,642																					
	None Existing																									
Cellar	Proposed				2,754							1,158	2,055							385					1,459	
	Existing				2,754							450	1,982												596	
1	Proposed	5,148	2,050	565		778	4,038						475										160			
	Existing	5,148	730		1,484	778	2,174	450															160			
2	Proposed	3,309											1,473	1,127								938				
	Existing	3,309											440	1,108								938				
3	Proposed													2,600												
	Existing			349									127	1,063								938				
4	Proposed	379												1,409								560				
	Existing	379												1,409								560				
5	Proposed													647								560				
	None Existing																								4,512	
6	Proposed																									
	None Existing																								4,512	
7	Proposed																									
	None Existing																								4,512	
8	Proposed																									
	None Existing																								4,512	
9	Proposed																									
	None Existing																								2,815	
<b>Totals</b>	<b>Proposed</b>	8,836	2,050	565	9,396	778	4,038	1,158	4,003	5,136	385	2,596	1,133	1,459	20,863											
	<b>Existing</b>	8,836	730	349	4,238	778	2,174	900	2,676	2,818	0	2,596	1,249	596	0											

beyond this level. OBJ 6 In addition to these administrative spaces, the creation of a suitable multipurpose room for larger ceremonies, meetings, life cycle ceremonies, lectures, etc and the addition of classrooms will address significant shortfalls in CSI's ability to serve both its members and the community.

Finally, the addition of residential use in the upper portion of the building is consistent with CSI's need to raise enough capital funds to correct the programmatic deficiencies described throughout this Application. The proposed residential floor area uses only 16 percent of the zoning lot's available zoning floor area, and represents 53.3 percent of proposed New Building zoning floor area, 40.7 percent of the New Building's gross floor area and 32.4 percent of the proposed zoning floor area (based on the entire zoning lot). When completed with the New Building, more than seventy percent of the development rights on the zoning lot (101,548.97 sf) will remain unused. The development rights used for the New Building have been native to the zoning lot for almost three-quarters of a century and have not been acquired from an adjacent lot for development purposes. The utilization of such unused floor area by a community facility for residential purposes is not uncommon, with several precedents in Community Board 7 alone, *e.g.*, Trinity School, Lincoln Center and current proposals by Fordham University and West-Park Presbyterian Church. (See Finding A for discussion on DOB Objections relevant to the above).

### **THE OBJECTIONS**

The following objections were received from the Department of Buildings (the "DOB") on August 28, 2007:

1. Proposed lot coverage for the interior portions of R8B & R10A exceeds the maximum allowed. This is contrary to Section 24-11/77-24. Proposed interior portion lot coverage is .80.



2. Proposed rear yard in R8B does not comply. 20.00' provided instead of 30.00' contrary to Section 24-36.

3. Proposed rear yard in R10A interior portion does not comply. 20.00' provided instead of 30.00' contrary to Section 24-36.

4. Proposed initial setback in R8B does not comply. 12.00' provided instead of 15.00' contrary to Section 23-633.

5. Proposed base height in R8B does not comply. 94.80' provided instead of 60.00' contrary to Section 23-633.

6. Proposed maximum building height in R8B does not comply. 113.70' provided instead of 75.00' contrary to Section 23-633.

7. Proposed rear setback in an R8B does not comply. 6.67' provided instead of 10.00' contrary to Section 23-663.

#### **ZRCNY Sec. 72-21 REQUIRED FINDINGS**

**There are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular zoning lot; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the use or bulk provisions of the [zoning] resolution; and that the alleged practical difficulties or unnecessary hardships are not due to circumstances created generally by the strict Application of such provisions in the neighborhood or district in which the zoning lot is located. ZRCNY Sec. 72-21(a)**

The unique physical conditions peculiar to and inherent in CSI's zoning lot include: (1) the presence of a unique, noncomplying, specialized building of significant cultural and religious importance occupying two-thirds of the footprint of the zoning lot, the disturbance or alteration of which would undermine CSI's religious mission; (2) a development site on the remaining one-third of the zoning lot whose feasible development is hampered by the presence of a zoning district boundary and requirements to align its streetwall and east elevation with the existing Synagogue building; and (3) dimensions of the zoning lot that preclude the development of floorplans for community facility space required to meet CSI's on-site religious, educational and

cultural programmatic needs. These physical and regulatory constraints are unique to this zoning lot. The strict application of the ZRCNY provisions raised as objections to the approval of the New Building will preclude CSI from developing the New Building or any substantially similar building and as such represents a practical difficulty in developing any feasible as-of-right New Building. Such strict compliance with the ZRCNY would therefore present a serious hardship in the furtherance of CSI's religious, educational and cultural mission.

For the programmatic reasons described above, none of CSI's religious, educational or cultural programmatic difficulties can be addressed through further development or alteration to the Synagogue on Lot 36 which contains 10,854 sf or 67.7 percent of the zoning lot's total area, yet is developed with only 27,759.2 sf, or 19.2 percent of the Zoning Lot's allowable 144,510.96 sf of zoning floor area. That therefore leaves the footprint of Tax Lot 37, which measures 64 ft by 100.5 ft, (37.2 percent of the Zoning Lot's total area), currently improved with a building in very poor condition, as the only area capable of being developed so as to remedy the current programmatic difficulties. In order to overcome these difficulties, it is necessary to both exceed the permitted lot coverage and the rear setback and yard requirements, all of which are calculated by reference to the dimensions of Tax Lot 37. Because the New Building must align itself with the west elevation of the Synagogue for its entire width in order to make the necessary programmatic connections, the resulting width of Tax Lot 37 is too narrow to provide compliant lot coverage (in fact the Synagogue already exceeds its permitted lot coverage, making it even more difficult for the New Building to comply) and compliant rear yard conditions.

Although the New Building is located almost entirely within the R8B portion of the Zoning Lot and is developed thereon in excess of the FAR 4 permitted for a development in an R8B district, this Application does not request any waivers with regard to the distribution of

zoning floor area because the Zoning Lot qualifies for the averaging methodology set forth in ZRCNY Sec 77-211. This provision provides that any Zoning Lot which existed prior to the enactment of the 1961 Zoning Resolution that is divided by a zoning district boundary is permitted to use an FAR over the entire zoning lot which represents an average maximum permitted FAR based on the proportional division of the zoning lot so divided. CSI purchased Lot 36 in 1895 and the two row houses now comprising the Lot 37 Community House in 1949 (see previously submitted Deeds). Accordingly, the combined tax lots represent a single zoning lot in existence prior to December 15, 1961 and, as such, the calculation of the maximum permissible floor area for this Zoning Lot is found in ZRCNY Sec. 77-211. The averaging methodology in that Section results in a maximum permissible FAR 8.36 across the Zoning Lot. While the Zoning Resolution permits the averaging methodology, thereby permitting as a matter of right the development of floor area over twice the permitted FAR 4, it does not provide in this case a similar mechanism for providing relief from the R8B height and setback, streetwall and rear yard provisions correlating to the FAR 4 massing established for R8B Quality Housing developments. This alone creates practical difficulties in this case; as it is essential that the New Building's massing accommodate its role in providing circulation space for the Synagogue and appropriately sized floorplates for the Community House, which cannot be achieved within the R8B Quality Housing provisions regulating lot coverage, yards and height and setback..

Lot Coverage in R10A and R8B. (Objection 1) ZRCNY Sec. 24-11 imposes a maximum lot coverage of 70 percent for interior lots, or portions of zoning lots that are interior lots. There is no similar requirement for lots within 100 ft of a corner. The CSI zoning lot is partially a corner lot, which portion is entirely zoned R10A and fully covered by the Synagogue and Parsonage, and partially an interior lot. The maximum permitted lot coverage is exceeded in the

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remaining R10A portion located beyond 100 ft from the avenue. Within the R8B portion of the zoning lot, the New Building covers 79.8 percent of the lot measured from above its groundfloor, below which is exempt from the calculation. Without a waiver permitting lot coverage in excess of 70 percent, the New Building cannot provide the floorplans that can address the existing programmatic difficulties in either the Synagogue or the new Community House.

Rear Yard in R10A and R8B. (Objections 2 & 3) ZRCNY Sec. 24-36 requires a rear yard of not less than 30 ft for interior lots or portions of zoning lots which are interior lots in R8B and R10A districts. ZRCNY Sec. 24-33 permits community facilities to build within a required rear yard to an elevation of 23 ft or one storey above grade, whichever height is lower. The New Building does not provide a 30 ft rear yard for its first four floors, those floors constituting the community facility portion of the building to be occupied by the Community House. The first floor is fully built to the rear property line as permitted. Floors 2-4 provide only a 20 ft rear yard because those floors must align properly with the Synagogue and must provide the appropriately sized offices and classrooms. The Application is limited to requesting a waiver from the rear yard requirement for floors 2 through 4 only. Above those floors, the remaining residential floors of the New Building do not further encroach into the required rear yard.

Height and Setbacks in R8B only. (Objections 4, 5 & 6) ZRCNY Sec. 23-633 governs height and setback requirements for buildings in contextual zoning districts such as R10A and R8B. The regulations establish a base height, require a setback above the base height and establish building height. The portion of the New Building within the R10A is fully compliant. In an R8B district, the permitted base height can range between 55 and 60 ft above curb, at which point the front elevation must set back 15 ft. The overall building height cannot exceed 75

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ft. The New Building has a base height of 94.8 ft, a setback of 12 ft and a building height of 105.8 ft. The unique aspects of the zoning lot, including the footprint of the Synagogue, the presence of the zoning district boundary in the only portion of the zoning lot capable of development, combined with the interests of the LPC in providing a front elevation harmonious -with both the designated landmark and the historic district render it impossible to provide any useful development in accordance with the applicable provisions of ZRCNY Sec. 23-633.

With regard to LPC's consideration of the location and height of the streetwall, the Commission took note of all of the surrounding buildings in approving the New Building, none of which comply. The 9-storey building to the west, 18 West 70<sup>th</sup>, located entirely within the R8B district, has a base height of approximately 100 ft, with no setback. With an FAR of 7.23, it is almost twice its permitted bulk. The buildings directly to the north and south, 101 CPW and 91 CPW respectively, each of 15- and 13-stories, also exceed these zoning requirements in the R8B portion of their zoning lots to an extent much greater than the New Building. The FAR of 101 CPW is 13.92 and the FAR of 91 CPW is 13.03. In reducing the New Building from the 14-storey initial application to the approved 8-storey plus penthouse New Building, the Commission worked closely with CSI's architects to gauge the precise elevations for the New Building's base, its setbacks and its height so as to strike a balance with the monumental architecture of the Synagogue to its east and the considerably noncompliant streetwalls to its west and north.

Rear Setback. (Objection 7) ZRCNY Sec. 23-663(b) requires that in both R10A and R8B districts no part of a building that exceeds the maximum base height established in ZRCNY 23-663(b) can be located within 10 ft of the rear yard line. The New Building's height complies with the maximum base height provisions applicable in an R10A district (minimum 60 ft/maximum 125 ft). The New Building exceeds the maximum 60 ft base height requirement

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applicable in an R8B district, thus triggering the provisions of ZRCNY Sec. 23-663(b). Its base height rises to 94.8 ft, while providing a 6.5 ft setback rather than the required 10 ft setback. The proposed base height above the permitted 60' and the proposed rear setback at less than the required 10' resulted in issuance of DOB Objection #7.

**Because of the physical conditions there is no reasonable possibility that the development of the zoning lot in strict conformity with the provisions of this resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such zoning lot. ZRCNY Sec 72-21(b)**

CSI's status as a not-for-profit religious organization renders this finding unnecessary. At the Board's request, however, due to the fact that the Application presents a situation in which Use Group 2 floor area is being created for sale to third parties as a component of the CSI's financial strategy for producing the New Building, CSI has retained the services of Freeman Frazier Associates to provide a Feasibility Study analyzing potential mixed use development on Lot 37. This analysis compared the rate of return that could be expected from the New Building containing 15,799 sf of residential sellable floor area with a hypothetical as-of-right building that would provide 5,316 sf of residential sellable floor area. It concluded that due to existing physical conditions on the zoning lot, including the need to address the Synagogue's circulation problems and the need to replace and enlarge the functions in the Community House, there is no reasonable possibility that a financially feasible mixed use building could be developed in strict conformity with the Zoning Resolution. The 27,771 sf as-of-right building yields 5,316 sf of residential sellable area. The total investment for such a project would be \$25,950,000 on a net project value of \$11,866,000, producing a capital loss to a developer of \$7,468,000.

In comparison, the New Building as proposed herein with 15,799 sf of residential sellable area requires an investment of \$31,722,000 on a net project value of \$38,510,000. This is an

8.16 percent rate of return, which Freeman Frazier posits to be minimally sufficient consideration as an investment opportunity.

**The variance, if granted, will not alter the essential character of the neighborhood or district in which the zoning lot is located; will not substantially impair the appropriate uses or development of adjacent property; and will not be detrimental to the public welfare. ZRCNY Sec. 72-219 (c)**

The Variance, if granted, will not alter the essential character of the neighborhood or the historic district; nor will it either substantially impair the appropriate uses or development of the adjacent properties or be detrimental to the public welfare. It is indisputable that a diversity of uses has been what has distinguished New York City neighborhoods and the Upper West Side is no exception. Approval of this Application will add 8,957.14 sf of Use Group 4 Use to CSI's current total of 38,838.10 sf, or an approximately 23 percent increase. It will add 22,907.49 sf of Use Group 2 residential use to a block developed with hundreds of thousands of feet of residential use. There will be no significant environmental consequences attributable to adding this minimal amount of square footage to the existing condition, which already includes the Synagogue, Parsonage and Community House. Moreover, at eight stories and one penthouse, the New Building will be a minor addition to the streetscape. It is dwarfed by the 13-storey 91 CPW to its south and the 15-storey 101 CPW to its north (both developed in excess of FAR 13) and has been limited by the LPC to the same height as 18 West 70<sup>th</sup> to its west. Viewed from the east in Central Park, it will rise but a few stories over the pitched roof of the Synagogue. Typically, the residential midblocks surrounding the Site (including West 70<sup>th</sup> Street) are 4 to 14 storeys tall. The neighboring building, 18 West 70<sup>th</sup> Street, rises nine-storeys with an elevation of 95'-1". Located directly east of this building are three five-storey town houses that rise to approximately the same elevation as the Synagogue's 69'-7" attic level. The Synagogue and townhouses

“frame” the New Building and its westerly neighbor to create a balanced visual context in keeping with the existing neighborhood character (See Proposed Elevation, P-17). Within the 400’ radius, the remaining buildings on the south side of West 70<sup>th</sup> Street include an additional nine storey building at the midblock and numerous 4 storey brownstones. Within this same 400’ radius on the north side of West 70<sup>th</sup> Street, an eighteen storey residential building is located directly opposite the Site and four storey brownstones front the remaining portion of the block. A six storey residential building is located on the northeast corner of West 70<sup>th</sup> Street and Columbus Avenue and a five storey residential building is located on the southeast corner of West 70<sup>th</sup> Street and Columbus Avenue.

With regard to the New Building’s impacts on the landmarked Synagogue and the historic district, the LPC has spoken definitively on the acceptability of the new design as appropriate regarding both urban design and preservation values. CSI has worked hard to earn the LPC’s acclimation and enthusiasm for the New Building and believes the LPC Certificate of Appropriateness should be considered the final word on its impact regarding urban design and historic preservation. With regard to CSI’s rear and side property line neighbors, the interior rear yard and rear yard setback waivers will have minimal impact. To the extent that construction at the ground floor will extend to Lot 37's southern lot line, it must be recalled that full lot coverage up to 23 ft above mean curb elevation is permitted as a matter of right on interior lots (or portions of zoning lots deemed interior lots) for qualifying community facilities. The rear yard waiver is required for floors 2 through 4 because a 20 ft rear yard is provided instead of 30 ft. Noncompliances with rear yard and rear yard setback requirements for the relatively small portion of this zoning lot deemed an interior lot are more than adequately compensated by the fact that yard conditions of the existing adjacent buildings, are both idiosyncratic and deep,

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producing distances between rear walls of up to 120 ft. With respect to the adjacent nine-storey building along the proposed New Building's western lot line, eight lot line windows will be blocked. In the as of right schemes three windows would be blocked.

**The practical difficulties or unnecessary hardships are inherent in the zoning lot and were not created by the Applicant or its predecessor in title. ZRCNY Sec 72-21(d)**

CSI acquired Lot 36 in 1895 and Lot 37 in 1949. Both were purchased specifically for development of the Synagogue and Community House, respectively. Conditions since the last alterations to the property in 1954 now impose economic hardships that could not have possibly been envisioned at the time the buildings were developed. Accordingly, neither the current nor the past Trustees have taken any steps leading to or increasing the extent of the conditions that result in the objections giving rise to this Application.

**Within the intent and purposes of this resolution the variance, if granted, is the minimum variance necessary to afford relief. ZRCNY Sec. 72-21(e)**

The Application provides nothing more than the waivers necessary to resolve CSI's religious, institutional and cultural programmatic difficulties. Specifically, the waivers are those minimally necessary to permit the New Building envelope to provide, in part: (1) the minimally necessary number of classrooms and the minimally necessary number of offices; both of suitable size, design and quality required, (2) a modest increase in the size of the Little Synagogue, (3) a multi-function room with ancillary kitchen facilities of suitable size and configuration for the many functions -- social, religious and educational -- any religious institution is called upon to provide, (4) archival facilities such that CSI's papers and relics can be brought back from an off-site facility and integrated into the religious, educational and cultural missions of CSI, (5) the incorporation in the New Building of a system of circulation designed to provide improved and barrier-free access to the sanctuaries in the Synagogue, and (6) the addition of residential units


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million restoration of the Synagogue, raised entirely from within the Congregation. That work continues, under such strict (and self-imposed) preservation guidelines that it has been the subject of glowing reviews by such local entities as the Landmarks Conservancy and such foreign interested parties as the Vatican, which has sent a delegation to observe the work.

Having begun the work to preserve this sacred site with a world-class restoration, CSI must now address with equal conviction the gap between what its facilities can provide and its programmatic goals. The gap is presently wide, but through careful analysis a plan has emerged that leaves the Synagogue untouched but requires that CSI utilize 42,961.53 sf (or 35 percent) of the 116,751.76 sf of unused floor area available to it on its zoning lot to redress these deficiencies. The successful deployment of that floor area resolves a complex matrix of Synagogue circulation issues, educational issues and administrative issues. Successful deployment includes the construction of 22,907.49 sf of new residential space, a small fraction of the available floor area intended to subsidize the endeavor. This successful deployment cannot occur without the approval of this Application.

On the basis of the foregoing statements, the Applicant respectfully requests that the Board make the requisite findings and grant the requested variances.

Respectfully submitted,

  
Shelly S. Friedman, Esq.  
FRIEDMAN & GOTBAUM, LLP

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Dated: New York, New York  
October 25, 2007

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